

**April 7, 2005**

**DECISION AND ORDER  
OF THE DEPARTMENT OF ENERGY**

**Appeal**

Name of Petitioner: Cornell Pieper

Date of Filing: March 1, 2005

Case Number: TFA-0090

On March 1, 2005, Cornell H. Pieper (Pieper) filed an Appeal from a determination issued to him on January 20, 2005, by the Richland Operations Office (Richland) of the Department of Energy (DOE/HQ) in response to a request for documents that Pieper submitted under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as implemented by the DOE in 10 C.F.R. Part 1004. This Appeal, if granted, would require that Richland perform an additional search for responsive material.

**I. Background**

On December 9, 2004, Pieper filed a FOIA request with DOE/HQ for any information that would confirm the employment of his father, Hilary G. Pieper, at the Hanford Site in 1944. Electronic mail message from Dorothy Riehle, Richland to Valerie Vance Adeyeye, Office of Hearings and Appeals (OHA) (March 30, 2005). Richland stated that it conducted a thorough search of its archived records database but was unable to locate any employment records for Pieper's father. Electronic mail message from Richland to OHA (March 24, 2005). In the Appeal, Pieper challenged the adequacy of the search and asks OHA to direct Richland to search again for responsive information. Letter from Pieper to Director, OHA (March 1, 2005) (Appeal).

**II. Analysis**

In responding to a request for information filed under the FOIA, it is well established that an agency must "conduct a search reasonably calculated to uncover all relevant documents." *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990). "The standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials." *Miller v. Department of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542. We have not hesitated to remand a case where it is evident that the search conducted was in fact inadequate. *See, e.g., Glen Milner*, 17 DOE ¶ 80,102 (1988).

Pieper wanted information that would confirm his father's employment at the Hanford Site in 1944. Pieper contacted the Social Security Administration and established that his father had worked for

DuPont in 1944 and 1945. *See* Itemized Statement of Earnings. The statement did not, however, contain the exact location of the elder Pieper's employment, and his son contacted DuPont for employment information relating to his father. DuPont sent Pieper a letter stating that it had no employment records on his father. Letter from E. I. DuPont de Nemours & Company, Inc. to Pieper (February 7, 2005). Pieper then filed this Appeal, arguing that records must exist in Richland. *See* Appeal; Memorandum of Telephone Conversation between Valerie Vance Adeyeye, OHA and Pieper (March 30, 2005).

We contacted Richland for information regarding its search for responsive information. Richland searched its archived records database using the elder Pieper's name and social security number, but was unable to find any employment records relating to the father. Electronic mail message from Dorothy Riehle, Richland, to Valerie Vance Adeyeye, OHA (March 24, 2005). According to Richland, DuPont took all of its records when it left the Hanford Site, including employment records. *Id.* If the responsive information is in the possession of a private entity, it is beyond the reach of the FOIA. *See Nancy Denlinger*, 28 DOE ¶ 80,300 (2003) at 80,921.\*

After reviewing the record of this case, we find that Richland conducted a search that was reasonably calculated to uncover the requested information. Accordingly, this Appeal is denied.

It Is Therefore Ordered That:

(1) The Freedom of Information Act Appeal filed by Cornell Pieper on March 1, 2005, OHA Case Number TFA-0090, is hereby denied.

(2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552(a)(4)(B). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

George B. Breznay  
Director  
Office of Hearings and Appeals

Date: April 7, 2005

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\* It is possible that no DuPont records exist. *See Carole L. Norris*, 28 DOE ¶ 80,290 (2003) fn.3 (stating that Richland discovered that DuPont had removed DuPont personnel records from the Hanford Site and that these records were subsequently destroyed).